



DEPARTMENT OF CORRECTIONS POLICIES AND PROCEDURES

Policy No.: DOC 3.4.3	Subject: TOBACCO USE
Chapter 3: FACILITY/PROGRAM OPERATIONS	Page 1 of 2, plus 2 attachments
Section 4: Rules and Discipline	Revision Date: June 26, 2002
Signature: /s/ Bill Slaughter	Effective Date: Jan. 1, 1998

I. POLICY:

It is the philosophy of the Department of Corrections to support a tobacco-free environment in all facilities and programs.

II. IMPLEMENTATION:

This policy was revised without significant content changes on June 26, 2002.

III. AUTHORITY:

2-15-112, MCA. Duties and Powers of Department Heads

45-7-307, MCA. Transferring Illegal Articles

53-1-203, MCA. Powers and Duties of Department of Corrections

53-30-101(3)(c), MCA. Location and Function of Prisons (definitions)

1.3.2, DOC. Disciplinary Action

3.4.1, DOC. Offender Discipline

Title 50, Chapter 40, MCA. Montana Clean Indoor Air Act.

IV. DEFINITIONS:

None.

V. PROCEDURES:

A. Posting:

Department buildings and vehicles will be conspicuously posted with signs prohibiting the use or transfer of tobacco products, such as Attachment [A](#) or [B](#).

B. Notification:

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Employees will be notified of the provisions of this policy upon employment. Vacancy announcements will contain smoking and tobacco use restrictions.

C. Smoking Restrictions and Receptacles:

1. In buildings or programs not housing offenders, employees and visitors will be required to cease smoking upon entering all owned or leased Department buildings and offices. Proper receptacles for disposal of smoking products will be placed at all appropriate locations. Smoking is not permitted in any vehicle owned or leased by the Department.
2. Programs not housing offenders may establish designated outdoor smoking areas. Outdoor smoking areas should be away from public entrances to buildings.
3. Wardens and Superintendents may approve specific exceptions designed to address legitimate offender spiritual practices.

D. Compliance:

1. Offenders violating this policy will be subject to disciplinary action, in accordance with Department policy 3.4.1.
2. Staff violating this policy will be subject to progressive disciplinary action in accordance with Department policy 1.3.2, Disciplinary Action, and possible criminal charges in accordance with MCA 45-7-307, Transferring Illegal Articles.
3. Non-employees violating this policy will be advised of the policy, and if they fail to comply, will be directed to leave the premises.

VI. CLOSING:

Questions concerning this policy should be directed to your immediate supervisor.

WARNING

YOU ARE ENTERING A STATE PRISON. TRANSFERRING OR RECEIVING ILLEGAL ARTICLES OR WEAPONS TO OR FROM A PRISONER IN A STATE PRISON IS A FELONY, AND IS PUNISHABLE BY UP TO 20 YEARS IN A STATE PRISON. THE FOLLOWING ITEMS ARE CONSIDERED ILLEGAL ARTICLES:

1. WEAPONS OF ANY KIND
2. AMMUNITION
3. DANGEROUS DRUGS
4. MONEY, CHECKS, MONEY ORDERS, CREDIT CARDS, DEBIT CARDS, ELECTRONIC TELLER CARDS
5. TOBACCO OR ALCOHOL PRODUCTS OF ANY KIND

SECTION 45-7-307, M.C.A., READS AS FOLLOWS:

45-7-307. TRANSFERRING ILLEGAL ARTICLES - UNAUTHORIZED COMMUNICATION.

- (1) (A) A PERSON COMMITS THE OFFENSE OF TRANSFERRING ILLEGAL ARTICLES IF THE PERSON KNOWINGLY OR PURPOSELY TRANSFERS ANY ILLEGAL ARTICLE OR WEAPON TO A PERSON SUBJECT TO OFFICIAL DETENTION OR IS TRANSFERRED ANY ILLEGAL ARTICLE OR WEAPON BY A PERSON SUBJECT TO OFFICIAL DETENTION.
- (B) A PERSON CONVICTED OF TRANSFERRING ILLEGAL ARTICLES OR A WEAPON SHALL BE:
 - (I) IMPRISONED IN A STATE PRISON FOR A TERM NOT TO EXCEED 20 YEARS, IF THE ITEM TRANSFERRED IS A WEAPON;
 - (II) IMPRISONED IN A STATE PRISON FOR A TERM NOT TO EXCEED 10 YEARS, IF THE ILLEGAL ARTICLE IS A DANGEROUS DRUG, AS DEFINED IN 50-32-101; OR
 - (III) IMPRISONED IN A STATE PRISON FOR A TERM NOT TO EXCEED 13 MONTHS OR BE FINED AN AMOUNT NOT MORE THAN \$1500, OR BOTH, IF THE ILLEGAL ARTICLE, OTHER THAN A WEAPON OR DANGEROUS DRUG, IS TRANSFERRED TO OR FROM A PERSON INCARCERATED IN A STATE PRISON, AS DEFINED IN 53-30-101(3)(C), OR BE FINED AN AMOUNT NOT MORE THAN \$100 OR BE IMPRISONED IN THE COUNTY JAIL FOR ANY TERM NOT TO EXCEED 10 DAYS, OR BOTH, IF THE ILLEGAL ARTICLE OTHER THAN A WEAPON OR DANGEROUS DRUG, IS TRANSFERRED TO OR FROM A PERSON INCARCERATED IN A PLACE OTHER THAN A STATE PRISON.
- (C) SUBSECTION (1)(B)(III) DOES NOT APPLY UNLESS THE OFFENDER KNEW OR WAS GIVEN SUFFICIENT NOTICE SO THAT THE OFFENDER REASONABLY SHOULD HAVE KNOWN THAT THE ARTICLE CONVEYED WAS AN ILLEGAL ARTICLE.
- (2) (A) A PERSON COMMITS THE OFFENSE OF UNAUTHORIZED COMMUNICATION IF THE PERSON KNOWINGLY OR PURPOSELY COMMUNICATES WITH A PERSON SUBJECT TO OFFICIAL DETENTION WITHOUT THE CONSENT OF THE PERSON IN CHARGE OF THE OFFICIAL DETENTION.
- (B) A PERSON CONVICTED OF THE OFFENSE OF UNAUTHORIZED COMMUNICATION SHALL BE FINED AN AMOUNT NOT TO EXCEED \$100 OR IMPRISONED IN THE COUNTY JAIL FOR ANY TERM NOT TO EXCEED 10 DAYS, OR BOTH.”

WARNING

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1. WEAPONS OF ANY KIND, (AS DEFINED IN 45-2-101, M.C.A.)
2. AMMUNITION
3. DANGEROUS DRUGS, (AS DEFINED IN 50-32-101, M.C.A.)
4. MONEY, CHECKS, MONEY ORDERS, CREDIT CARDS, DEBIT CARDS, OR ELECTRONIC TELLER CARDS
5. TOBACCO OR ALCOHOL PRODUCTS OF ANY KIND

REFERENCE: 45-7-307, MCA. TRANSFERRING ILLEGAL ARTICLES – UNAUTHORIZED COMMUNICATION
53-30-101(3)(C), MCA. LOCATION AND FUNCTION OF PRISONS- DEFINITIONS.